

TRC Meeting Minutes – October 15, 2009
City Hall – Council Chambers 217 S. Main Street

TRC Members Present: Dan Mikkelsen, Patrick Ritchie, David Phillips, Preston Mitchell, Joe Morris, Teresa Barringer, Terry Smith, Jason Wilson, Lynn Raker, Chris Branham, Craig Powers, Lynn Hillard, and Planning Board Representative – Craig Neuhardt

Guests Present: Jay Dees, Ketner & Dees Attorneys at Law – Representing GD-01-09 Associated Asphalt
Michael Westfall, Kimberly-Horn & Associates – Representing CD-8-05-2009 Taco Bell

I. Meeting called to order by TRC Chair Dan Mikkelsen at 9:00 a.m.

II. Welcome Guests and Visitors

III. Approval of Minutes

- Joe Morris made the motion to approve the August 20, 2009 TRC Minutes. Terry Smith seconded the motion. All were in favor.

IV. Adoption of the Agenda – Adopted by acclamation

V. Land Development Ordinance Review

- **GD-01-09 AAP-Salisbury)Associated Asphalt**
1825 Jake Alexander Blvd. West
Tax Map 331, Parcel 066
Zoning HB w/General Development Overlay

David Phillips introduced submittal for an addition to the existing facility for additional office space and restroom to meet ADA accessibility. The current use is non-conforming. The LDO prohibits the expansion of non-conforming uses. Staff recommended the applicant put the request on hold until a ruling has reached for the Superior Court case of APAC.

Attorney Jay Dees detailed the expansion would not increase the non-conforming use. To wait on APAC would be a minimum 12 – 15 month delay. Discussions followed regarding review and approval authority.

Action Taken: David Phillips made a motion to temporarily suspend the review pending clarification from our legal attorney as to a review procedural clarification. Joe Morris seconded the motion. Discussion followed: Patrick Ritchie asked if there were actually any glaring opposition as to what the applicant was requesting. Dan Mikkelsen stated that was not an area he wanted to get into pending legal opinion. Jay Dees asked if he could get a confirmation that it would be placed on the November TRC? Dan stated to be in keeping with our commitment to provide excellent customer service, we would try not to delay the process. All were in favor of the motion to temporarily suspend the review.

- **CD-8-05-2009 Taco Bell**
510 Jake Alexander Blvd. West
Tax Map 061, Parcel 210
Zoning HB

Preston Mitchell introduced the submittal as a minor revision to the previous CD approval. The request is to relocate some of the light poles and revise the landscape plan due to relocation of the poles. Michael Westfall of Kimberly Horn & Associates introduced himself at the table and was available for questions. Jason Wilson reminded staff the plantings at the meters must be in keeping with the meter and backflow device being accessible. Michael Westfall can shift the plantings and send a new pdf to Preston. Joe Morris asked if this change would create any additional impact to the neighborhood. Preston identified that it would not and clarified that the applicant would be using shielded lights abutting

Action Taken: Preston Mitchell made the motion to recommend provisional approval subject comments made by Utilities regarding relocation of plant material from the water meter. Jason Wilson seconded the motion. All were in favor.

- **LDO-TA-12-2009 DMX Lot Provisions (Moved to the end of the agenda per Preston's request)**

VI. Board Business

Discussion: Proposed amendment to the Salisbury City Code of Ordinances: Annual Notice to Chronic Violators of Overgrown Vegetation Ordinance.

Joe Morris presenting the proposal requesting to amend the City code to adopt this new law. Joe gave information regarding a new legislation that is at our disposal to notify chronic violators of overgrown vegetation which was adopted as law. This originally started out as a local bill to allow towns to notify the chronic violators. The City's policy is that this must be brought before the TRC and then to City Council for approval. Additional discussion followed regarding the procedures of notification to the violators and the actions to be taken. Joe asked if the TRC had any conflicts with the amendment request. TRC discussed the request and no conflicts were identified.

- **LDO-TA-12-2009 DMX Lot Provisions**

The proposal was presented by Lynn Raker and Preston Mitchell regarding setbacks in the DMX. The minimum rear and side yard setbacks for non-conforming house types in the DMX. Previous amendment to the ordinance did change the minimum lot depth, but not the side and rear setbacks. Existing non-conforming house types in the DMX are to use the UR setbacks. Ref: Section 5.16(d) Dan asked for clarification that only existing house types are allowed in the DMX and are non-conforming which cannot be expanded. New house types are not allowed in the DMX. Additional discussion followed regarding avoiding getting into the actual uses in determining the setbacks. The lot depth for DMX was eliminated; but the setbacks for side and rear were overlooked. The established setbacks for existing non-conforming house types using the UR standards are proving to cause some inconsistencies with the intent of the DMX district. Preston stated the goal was to not have 'new' house types built in the DMX, but rather retain the DMX as the core and encourage mixed use and urban design in our CBD. In doing so, we prohibited the house type. Preston recommended permitting the house type but with dimensional standards for house types. (reference page 5-4) Put dot allowing house types in DMX but put a sub number stating no new house types permitted in the DMX. This would allow the existing house types in the DMX to be conforming and zero out the dimensional standards. Or, if wanted to allow the new house types in the DMX, make it go through as a special use permit.

Action Taken: Preston Mitchell made a motion to suspend the review of LDO-TA-12-2009 subject to developing appropriate dimensional standards for the house and Townhouse types in the DMX and place on the November TRC agenda with a recommendation to be permit house and townhouse types in the DMX where new house types would be prohibited and new townhouse types would be subject to the issuance of a Conditional District. Patrick Ritchie seconded the motion. All were in favor.

Staff also discussed Section 5.3.E, noting it should be relocated to Chapter 1 to apply to the entire Land Development Ordinance.

- **Additional Board Discussion:**

Dan stated there two items for discussion. One is a request from a property owner (Bill Graham) in the Crescent Subdivision to close and gate a public road to convert as a private drive.

The other item is utility standards specifications for water distribution piping and sanitary sewer piping. SRU is in the process of adopting standards and submitted to DENHR for approval and once on the books, we will have a set of preapproved specs from DENHR. The City Council goal is to get local permitting authority for water and sewer extensions. Dan briefed the committee on the status of the submittal process and what steps are being taken. Jason Wilson identified specs have been submitted to DENHR.

Dan stated that if any one that did not have an interest in these two topics would be free to excuse themselves from the meeting. Lynn Raker also asked if the committee would have time for discussion regarding downtown lighting.

Staff proceeded to begin review and discussion of the request of Mr. Graham who owns multiple lots in the subdivision with his residence at the end of a cul-de-sac located on Crenshaw Court. The request drew much discussion regarding how the utilities would be handled. The question arose as to whether or not the property owner had contact the Crescent Homeowners Association as to whether or not this would be allowed. Staff agreed that more information will be needed from the Fire Dept., SRU, and street lighting to review any further.

Lynn Raker asked to discuss the 1ft candle restriction in the lighting code, specifically regarding a city parking lot project located behind Bernhards. Staff discussed the protection of adjacent properties as downtown use has both commercial and residential. Preston recommended exempting the 1ft candle from the DMX. David Phillips clarified that if you are DMX abutting DMX, you would be exempt from shielding the lights. Where property lines abut residential districts, the requirement would remain. Staff continued to discuss different options. For the City project, Lynn Raker will contact the sales representative of the lighting to confirm that the lighting meets the LDO. David recommended that Section 5.3.E of the LDO be relocated to Chapter 1 of the ordinance so it will apply to all chapters of the LDO. This will allow HPC approvals of architectural features to supersede the standards in the LDO.

VII. Adjourn

Dan Mikkelsen adjourned the meeting at 11:52 a.m.